

OAKLAND POLICE DEPARTMENT

Office of Inspector General



Search Warrant Audit

October 15, 2012

Memorandum

To: Chief Howard Jordan
From: Office of Inspector General
Date: October 15, 2012
Subject: Search Warrant Audit

The Audit and Inspections Unit of the Office of Inspector General (OIG) initiated its first annual audit of search warrants in September 2012. The purpose of the audit was to determine the Department's compliance with its policy as set forth in the Training Bulletin I-F, Obtaining a Search Warrant. Per Training Bulletin I-F, the OIG is required to conduct an annual compliance audit of search warrant documents.

To conduct the audit, the audit team examined a sample of search warrants served in 2012.

Steven Tull
Captain of Police
Office of Inspector General

OFFICE OF INSPECTOR GENERAL
Audit and Inspections Unit



LEAD AUDITOR

Officer Ann Pierce

CONTRIBUTORS

Ms. Kristin Burgess

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EXECUTIVE SUMMARY

On September 1, 2012, the Audit and Inspections Unit of the OIG initiated an audit of the Oakland Police Department's compliance with Training Bulletin I-F; OBTAINING A SEARCH WARRANT. The bulletin sets forth the guidelines for obtaining a search warrant and dictates the review and tracking procedures.

The current audit found significant compliance with policy. The supervisors and commanders assured review of warrants prior to being presented to a judge. The CID commander and CID administrative personnel reviewed completed/served warrants and associated inventory forms and forwarded copies to OIG. The Search Warrant Approval Tracking Sheet (TF-3343) allows all personnel involved to track and manage search warrants and creates a necessary check and balance.

PURPOSE

The purpose of the inspection audit was to determine if the Oakland Police Department is adhering to its guidelines for obtaining a search warrant, as set forth in the Departmental Training Bulletin I-F.

BACKGROUND

Departmental Training Bulletin I-F requires the OIG to conduct compliance audits annually and it requires an annual external audit. An independent external audit of Department search warrants was completed in March 2012. The most recent search warrant policy is Departmental Training Bulletin I-F, which was revised on November 10, 2012.

The March 2012 external audit found excellent compliance with policy and training. It also found some structural concerns, including:

- Date and time of service was not always clearly documented,
- Some search warrant property inventory sheets were difficult to read due to illegibility of the writing, and
- Some affiants appeared to have less experience (fewer than three years in patrol) than may be prudent for conducting search warrants.

SCOPE AND POPULATION

Scope

The audit focused on the Department's policy and practices in its review and tracking of search warrants. Departmental Training Bulletin I-F and the Search Warrant Approval Tracking Sheet (TF-3343) were used as guidelines. OIG reviewed search warrants and associated tracking sheets and inventories.

Review Population

At the time of the audit, there had been 187 completed and served search warrants year to date. All of the warrants were generated by personnel from one of four major areas of the Department; MCS (CID-Major Crimes/Robbery), GITF (CID-Gang Intelligence Task Force), FIS (CID-Family Investigation Section) or Patrol (BFO1 and BFO2-Patrol and Special Resources). The year-to-date breakdown per area was as follows:

Area	# of Warrants in Population
MCS	108
GITF	20
FIS	19
Patrol	40
TOTAL	187

Using a one-tail test, a sample of 64 warrants was selected to achieve a 95% confidence level with an error rate of +/- 4%. In an attempt to get a varied cross section of the warrants, proportional sampling was used. The table below identifies the proportional sample.

Area	# of Warrants in Sample
MCS	38
GITF	7
FIS	6
Patrol	13
TOTAL	64

The warrants for each Area were randomly selected using the number randomizer located on the <http://www.randomizer.org/index.htm> website.

The breakdowns of the different types of search warrants by area are as follows:

AREA	TYPE OF WARRANT	# OF WARRANTS
MCS	Evidence of a crime	29
MCS	Guns	6
MCS	Records	3
GITF	Drugs	3
GITF	Guns	4
FIS	Property	2
FIS	DNA	2
FIS	Records	2
PATROL	Guns	6
PATROL	Property	4
PATROL	Drugs	3

Reference Material

- Department Training Bulletin I-F; OBTAINING A SEARCH WARRANT
- Search Warrant Approval Tracking Sheet (TF-3343)

AUDIT OBJECTIVES AND FINDINGS

Audit Objective 1

Department Training Bulletin I-F requires officers to complete a Search Warrant Approval Tracking Sheet for every search warrant. Each Search Warrant Tracking Sheet requires the following:

- I. Informant File Number if applicable
- II. Supervisor review/approval prior to presentation to a judge
- III. First-Level Commander review/approval prior to presentation to a judge
- IV. CID Commander review after service of warrant
- V. CID Administration review/scan after service of warrant
- VI. Notation of Chemical Analysis Report if applicable

Findings

- I. Informant File Number if applicable:*

Of the warrants reviewed, only four of them involved the use of a confidential informant. Of those four warrants, one of them had sealed affidavits with the word “Not disclosed” where the informant number was required on the tracking sheet; indicating that the approving judge concurred with the need to make the identity of those used to establish probable cause confidential to everyone, but the warrant author and the Court. One of the warrants used a San Francisco Police Department Informant. The other two warrants listed the appropriate applicable informant number.
- II. Supervisor review/approval prior to presentation to a judge:*

All of the Search Warrant Tracking Sheets had a supervisor’s approval signature prior to being presented to a judge.
- III. First-Level Commander review/approval prior to presentation to a judge:*

All of the Search Warrant Tracking Sheets had a commander’s approval signature prior to being presented to a judge
- IV. CID Commander review after service of warrant:*

All of the Search Warrants were reviewed by the CID Commander. All of the Search Warrant Tracking Sheets had a dated signature by the CID Commander completed after the respective warrant service.

V. CID Administration review/scan after service of warrant:

All of the Search Warrant Tracking Sheets were signed and dated by CID Administrative personnel and scanned into a PDF. All of the warrants and associated documents reviewed for this report were in fact copies of those scanned files.

VI. Notation of Chemical Analysis Report if applicable:

Not applicable. Of the 64 warrants reviewed, none of them required analysis. Subsequently, no Chemical Analysis Reports were completed and none were noted on the Search Warrant Tracking Sheets.

Audit Objective 2

All search warrants require the approval of a judge prior to service.

Findings

All of the search warrants were served after being reviewed and approved by a judge.

Audit Objective 3

When applicable, a Chemical Analysis Report will be attached to the affidavit.

Findings

Not Applicable – None of the warrants required chemical analysis.
See Review Objective 1-VI for further details.

Audit Objective 4

All search warrants require an inventory form.

Findings

All of the warrants included a completed inventory form.

Audit Objective 5

All completed/served search warrants are to be forwarded to OIG.

Findings

All search warrants met this requirement. This was verified by their presence on the OIG Network Server.

Audit Objective 6

All scanned copies residing on server are to be legibly preserved for future reference.

Findings

All search warrants met this requirement. Scanned copies of the search warrants are being maintained by CID. The warrants are scanned onto a secure confidential server with limited access by approved personnel.

Audit Objective 7

All sworn members shall complete an online "Search Warrant Fundamentals" course through the POST Learning Portal website.

Findings

The auditor reviewed the list that was sent from POST documenting the sworn members who have completed the training course. The majority of the department members did complete the course. In order to ensure that all members have completed the course the Training Department has added the course to the "weekly compliance list" which is a tracking mechanism to ensure full compliance.

Audit Objective 8

Training Section shall develop and present additional courses as needed to meet the training needs of the Department.

Findings

The Department hosted a Search Warrants "A Through Z" class. The course was a comprehensive sixteen-hour search warrant course. The class is a Post certified class, but is not a mandatory class.

The course covered topics such as:

- What is a search warrant?
- Who can get one?
- What can you seize?
- How do you seal a search warrant?
- When it is appropriate to seal a warrant or parts thereof?
- Essential basics of what is needed for a solid warrant that will withstand Judicial review.

Audit Objective 9

Officers shall observe statutory and administrative requirements regarding returning to the issuing court the original search warrant and inventory of evidence seized pursuant to the search warrant (Penal Code 1534)

Findings

Due to time constraints and logistical issues, the auditor was only able to review a handful of files at the issuing court to determine if original search warrants and inventory of evidence seized were returned to the court. The auditor found that all of the search warrants reviewed met the legal requirement for return to court with proper inventory forms if they were necessary. Future audits will focus on this requirement more comprehensively.

RECOMMENDATIONS

Regarding the POST Search Warrant class, it is recommended that the Department should ensure that all sworn members complete the course as mandated by Department policy to maintain compliance.